

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRIAN ANTHONY GATES,)	Case No. C07-1835-MJP-JPD
)	
Plaintiff,)	
)	
v.)	
)	REPORT AND RECOMMENDATION
STARBUCKS COFFEE CORPORATION,)	
)	
Defendant.)	

Plaintiff Brian Anthony Gates has filed an application to proceed *in forma pauperis* (“IFP”) in this proposed lawsuit against defendant Starbucks Coffee Corporation. Dkt. No. 1-1. While purporting to pursue a civil case, plaintiff fails to present any civil claims; rather, he alleges random violations of the criminal code. Dkt. No. 1-1 at 2-3. After careful consideration of plaintiff’s IFP application and supporting materials, the governing law and the balance of the record, the Court ORDERS as follows:

Pursuant to 28 U.S.C. § 1915(e)(2)(B), this Court may deny an application to proceed IFP and should dismiss a complaint if it is frivolous or fails to state a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(ii); *O’Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). An action is frivolous if “it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

Here, plaintiff’s proposed complaint alleges only violations of the criminal code. If

01 plaintiff intended to pursue any civil claims, he fails to allege sufficient facts to place the
02 defendant on notice of the nature of his claims or to otherwise provide any basis for
03 jurisdiction in this Court. *See* Fed. R. Civ. P. 8(a). Because this action appears frivolous and
04 fails to state a claim upon which relief can be granted, it is subject to dismissal under 28 U.S.C.
05 § 1915(e)(2)(B) and Federal Rule of Civil Procedure 12(b)(6).

06 The Court notes that this is not the first time that plaintiff has lodged a frivolous
07 complaint in this district. *See also Gates v. Department of Justice*, C07-1836-RAJ, Dkt. No.
08 4. To this end, the Court advises plaintiff of his responsibility to research the facts and law
09 before filing a complaint in order to determine whether his claim for relief is frivolous. If
10 plaintiff files a frivolous action, he may be sanctioned. *See* Fed. R. Civ. P. 11. The Court
11 would likely impose a sanction of dismissal on any frivolous complaint. If plaintiff files
12 numerous frivolous or malicious complaints, the Court may bar him from proceeding in this
13 court. *See DeLong v. Hennessey*, 912 F.2d 1144, 1146-48 (9th Cir. 1990) (discussing bar
14 order requirements).

15 Because of the extreme deficiencies in plaintiff's proposed complaint, his request to
16 proceed IFP should be DENIED and this case DISMISSED without prejudice. 28 U.S.C. §
17 1915(e)(2)(B); Fed. R. Civ. P. 12(b)(6). A proposed Order of Dismissal accompanies this
18 Report and Recommendation. If plaintiff believes that the deficiencies outlined herein can be
19 cured by an amendment to his complaint, he should lodge an amended complaint as a part of
20 his objections, if any, to this Report and Recommendation.

21 DATED this 27th day of November, 2007.

22
23 
24 JAMES P. DONOHUE
25 United States Magistrate Judge
26